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General Assembly

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Summary record of the 8th meeting
Held at Headquarters, New York, on Thursday, 21 June 2007, at 10 a.m.

Chairperson: Ms. Ferrari ..... (Saint Vincent and the Grenadines)

Contents

Adoption of the agenda

Question of the Falkland Islands (Malvinas)

Hearing of representatives of the Non-Self-Governing Territory

Hearing of petitioners

Draft resolution A/AC.109/2007/L.8

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07-39034 (E)

The meeting was called to order at 10.20 a.m.

Adoption of the agenda

1. *The agenda was adopted.*

Requests for hearings

Question of the Falkland Islands (Malvinas) (A/AC.109/2007/13; A/AC.109/2007/L.8)

2. **The Chairperson** informed the Committee that the delegations of Argentina, Brazil, Paraguay, Peru and Uruguay had indicated their wish to participate in the Committee's consideration of the item.

Hearing of representatives of the Non-Self-Governing Territory

3. *At the invitation of the Chairperson and in accordance with the requests for hearing granted at previous meetings of the Committee, Mr. Davies and Mr. Hansen (Legislative Council of the Falkland Islands) took places at the petitioners' table.*

4. **Mr. Davies** (Legislative Council of the Falkland Islands) said that Falkland islanders were vehemently opposed to any resolution calling for negotiation between the United Kingdom and Argentina on sovereignty over the Falkland Islands. Falkland islanders alone had the right to make decisions on such issues and to determine their political future. The people of the Falkland Islands remained grateful for the sacrifices made by British forces to liberate them from Argentine occupation in 1982, from which they continued to bear mental and physical scars. They felt bitter at ongoing attempts by Argentina to colonize the islands through diplomatic and economic pressure. The Falklands Islands had never been part of Argentina and were culturally, geographically and ethnically distinct from their large and territorially ambitious neighbour. Falkland islanders had no desire to become part of a greater Argentina. Annexation by Argentina, whether by negotiation or conquest, would be tantamount to occupation and colonization by a foreign Power, in violation of General Assembly resolution 1514 (XV) and the Charter.

5. Argentina's claim that the islanders were a transplanted people and therefore had no right to determine their own future was nonsense. The Falkland Islands had never been part of Argentina. They had been uninhabited when they were discovered in the sixteenth century. The first permanent settlements had come with British rule. For nearly 200 years since then, Falkland islanders had peacefully developed and administered their country. The brief and failed occupation of the Falkland Islands by Argentina in the early nineteenth century was no justification for denying the right of its inhabitants to self-determination.

6. Many United Nations bodies had asserted that that right was of paramount importance for the advancement of decolonization. Nevertheless, some members of the Committee had recently attempted to restrict the right to self-determination to Non-Self-Governing Territories over which there were no disputes over sovereignty. Paragraph 7 of the conclusions and recommendations of the Caribbean regional seminar held in May 2007 stated that in the process of decolonization, and where there were no disputes over sovereignty, there was no alternative to the principle of self-determination. One or two self-interested Member States, aided by their political allies, appeared to have tried to exclude territories where there were such disputes. He hoped that such a fundamental human right as the right to self-determination could not be as easily dismissed on the grounds that one State coveted its neighbour's land.

7. Falkland islanders did not currently seek independence or integration. Rather they valued and wished to continue their present constitutional relations with the United Kingdom. British sovereignty did not imply a colonial relationship. Falkland islanders had a voluntary and continually evolving partnership which was based on their right to self-determination.

8. In addition to its diplomatic offensive, Argentina was attempting to further its nationalistic ambitions by economic measures which were equivalent to sanctions, including the refusal of permission for charter flights to cross its air space and recent fisheries legislation which would prevent companies with licences for Falkland Island waters from also obtaining licences to fish in Argentine waters. In April 2007, Argentina had withdrawn from the 1995 United Kingdom-Argentine Joint Declaration on Hydrocarbons, thereby thwarting potential future cooperation and confidence-building. He called on the Committee to act as advocate of the Falkland islanders and protest such disgraceful behaviour, which could only be aimed at damaging their economy.

9. Falkland islanders had no quarrel with the people of Argentina. They remained committed to the concept of cooperation on practical issues such as conservation of fish stocks and wildlife, under a sovereignty umbrella, and to improving relations between the two communities. For example, they had invited the families of Argentine soldiers, sailors and airmen who had fallen in 1982 to a commemoration later in 2007. Such contacts between communities could increase understanding and heal the scars of war.

10. He called on the Committee to amend draft resolution A/AC.109/2007/L.8. The paramount importance of the wishes of Falkland islanders in determining their future should be clear, and their right to self-determination should be confirmed. To ignore the views and rights of the people involved would lead nowhere.

11. **Mr. Hansen** (Legislative Council of the Falkland Islands) said that he was a fourth-generation islander whose ancestors had made the Falklands their home more than 150 years previously. The Falkland Islands could be compared to other New World countries, including Australia, New Zealand, the United States, Canada, and even Argentina, whose current populations consisted of predominantly immigrant European stock. The only significant difference was that there had been no indigenous population to replace in the Falkland Islands as was the case in other places. Like many other families who had settled in the Falklands more than 150 years previously, his family had not only farmed the land and sailed the Falkland waters, it had also served the country as doctors, nurses, politicians, teachers and policemen and contributed greatly to all kinds of craftsmanship needed to make the islands the successful and prosperous place it was at present — despite Argentina's constant refusal to recognize the islanders' right to self-determination and to choose their own future.

12. That right had been challenged in 1982 by military invasion. Since the war, the Falkland Islands had prospered and developed far beyond expectations. The Falkland Islands had a strong economy, a thriving business community and excellent education and health services. There was no poverty within the Falkland community, and most people lived in modern houses with all the modern conveniences. His Government continued to invest in infrastructure, including a wind farm to supply the capital with cheaper electricity and the introduction of a ferry between East and West Falklands. His Government continued to support the main industries on the islands, including fishing, tourism and communications, without preference or discrimination.

13. The islands had also made steady progress in the areas of self-government and democracy. In 1949 the first elected members had joined appointed members on the Legislative Council by universal suffrage. In 1985, the first Constitution had laid down a range of fundamental rights and freedoms, contained provisions for the independence of the judiciary and paved the way for a fully elected Legislative Council. He described the workings of the Government of the Falkland Islands to show that it was a self-governing and self-sufficient overseas territory and called on the Committee to recognize its right to self-determination.

14. *Mr. Davies and Mr. Hansen withdrew.*

15. **Mr. Friday** (Grenada) said that his Government had invested considerable time and effort in promoting the fundamental principle of the right of self-determination enshrined in the Charter. Article 1 stated that one of the purposes of the United Nations was to develop friendly relations among nations based on respect for the principle of equal rights and the self-determination of peoples. The primary purpose of the work of the Committee was to move countries towards decolonization and self-determination. His delegation was extremely concerned that sovereignty issues were overshadowing the core purpose and function of the Committee.

16. A number of countries over whose territories sovereignty issues were pending had been able to move from colonization to full independence. It was therefore unclear why the Committee was introducing new constraints to impede the very purpose for which it had been established. If it allowed disputes over sovereignty to block the decolonization process, other new constraints might well be introduced to deny colonies their right to self-determination. It was unclear therefore why dialogue was being sought among two colonial Powers in the case of the Falkland Islands (Malvinas), without the full involvement of the Falkland islanders themselves. He wondered whether the Committee was not thereby sending a message to the Falkland islanders that they were not yet politically mature enough to have a say in their own destiny and that they had no right to self-determination. There could be no question of dialogue between the United

Kingdom and Argentina over the Territory without the full participation of the Falkland islanders themselves. To exclude them would be to reaffirm the principles of colonization and reject the Charter of the United Nations.

17. *At the invitation of the Chairperson, Mr. Lewis took a place at the petitioners' table.*

18. **Mr. Lewis** said that he was a native of the Malvinas Islands but had lived on the Argentine mainland from an early age. Some 20 years had passed since his first petition to the Committee, and it was disappointing that so little progress had been made in that time. The United Kingdom continued to refuse to resume negotiations with Argentina over the sovereignty of the islands, despite the fact that the United Nations had passed a series of resolutions clearly stating that the only way to end the special and particular colonial situation in the question of the Falkland Islands (Malvinas) was the negotiated settlement of the dispute over sovereignty between the Governments of Argentina and the United Kingdom, taking into account the interests of the population of the islands.

19. With respect to the question of territorial integrity versus self-determination, he recalled that self-determination did not apply in the case of the Malvinas because the original Argentine population had been expelled by force and replaced by British colonists.

20. Lack of agreement regarding sovereignty had also impeded cooperation on common interests such as fishing, tourism, livestock breeding and hydrocarbon exploitation. The United Kingdom continued to take unilateral decisions on matters such as fishing rights and oil exploration, thereby violating the spirit of General Assembly resolution 41/11, which declared the South Atlantic a "zone of peace and cooperation".

21. The Argentine Republic stood ready to discuss all issues relating to the Malvinas, including sovereignty. He therefore requested the Special Committee to call upon the United Kingdom to address the issue with the seriousness it deserved, taking into account its importance to the Organization and the world in general.

22. *Mr. Lewis withdrew.*

23. *At the invitation of the Chairperson, Mr. Vernet took a place at the petitioners' table.*

24. **Mr. Vernet** said that his great-great-grandfather had been appointed the first political military commander of the Malvinas Islands in 1829, as part of a State policy aimed at consolidating ownership and sovereignty in the Patagonian mainland and islands. Nine years earlier, in 1820, the Argentine Government had initiated a series of Government Acts to establish settlements in the Malvinas and develop its natural resources, including fisheries. The Government Acts were well documented and neither the United Kingdom nor any other State had lodged any claim or protest.

25. By 1833, the Malvinas had become the Argentine Republic's strategic enclave in Patagonia. The islands had been governed by Argentine authorities, under Argentine laws. The expulsion of the local population by British forces had therefore constituted a violation of the Argentine Republic's territorial integrity.

26. Given the history of the Malvinas, it was ironic that the United Kingdom should request the Special Committee to apply the principle of self-determination. It was also ironic that the United Kingdom should request the Special Committee to consider the wishes of the current inhabitants, when those inhabitants were British citizens loyal to the occupying Power.

27. The Argentine Government had repeatedly expressed its willingness to find a peaceful, negotiated solution to the sovereignty dispute regarding the Malvinas, while taking into account the interests of the population of the islands. The Special Committee was therefore requested to actively promote a constructive dialogue between the United Kingdom and the Argentine Republic, pursuant to the relevant General Assembly resolutions and the resolutions of the Committee, with a view to finding a fair, lasting and peaceful solution.

28. *Mr. Vernet withdrew.*

Draft resolution A/AC.109/2007/L.8

29. **Mr. Muñoz** (Chile), introducing the draft resolution, said that it reflected the main elements of United Nations doctrine on the issue. The text reiterated that the only way to put an end to the particular colonial situation in the Malvinas Islands was the peaceful and negotiated settlement of the dispute over sovereignty between the Governments of Argentina and the United Kingdom, and it requested the parties to consolidate the current process of

dialogue and cooperation through the resumption of negotiations.

30. The presence at the meeting of a large number of representatives of Latin American countries in itself reflected the interest of the countries of the region in a definitive solution to the question. Like the other Latin American countries present at the meeting, Chile supported the rights of the Argentine people in the dispute concerning sovereignty and regretted that the issue had yet to be resolved.

31. He trusted that the draft resolution would be adopted by consensus, as in previous years.

32. **Mr. Taiana** (Observer for Argentina) said that until 3 January 1833 the Malvinas Islands had been part of the territory of the Argentine Republic; it had been governed by the Argentine authorities and inhabited by Argentine peoples, whom the United Kingdom had forcibly expelled, replacing them with a colonial administration and a population of British origin. That act had been carried out in peacetime without prior declaration or communication. The Argentine Government and people remained both perplexed by that act of colonial force and determined to uphold their legitimate sovereignty rights under their Constitution.

33. Although the illegal occupation of the Malvinas Islands had continued for many years, it was unacceptable for any civilization to appropriate that which belonged to another. The General Assembly and the Special Committee considered the question of the Malvinas Islands to be different from traditional colonial disputes because it involved a sovereignty dispute. The preamble to General Assembly resolution 1514 (XV) stated that "all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory". Paragraphs 6 and 7 of the resolution stressed that "any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter", which "all States shall observe faithfully and strictly ... on the basis of equality, non-interference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity".

34. Since the time of the illegal occupation, the colonial administration had systematically prevented the indigenous population of the Malvinas Islands from returning to their land and the United Kingdom had asserted its competence to apply legislation in Argentine territory by ratifying the British Nationality (Falklands Islands) Act of 1983. The right to self-determination was intended to be exercised by subjugated native populations, not by the descendants of the administrative employees of colonial governments in order to transform illegitimate possession into full sovereignty. It would be both ironic and absurd to use resolution 1514 (XV), which was designed to bring an end to colonialism, to perpetuate a colonial situation to the detriment of the legitimate rights of the Argentine people.

35. General Assembly resolution 2065 (XX) recognized the justice of his Government's claim by establishing that the question of the Malvinas Islands was a colonial issue that involved the existence of a sovereignty dispute between Argentina and the United Kingdom as sole parties. By accepting the existence of the dispute and urging both parties to negotiate, the resolution excluded application of the principle of self-determination as a means of dispute settlement. To grant self-determination to the British inhabitants, whose ancestors had been transplanted from the United Kingdom after the usurpation, would imply acceptance of a violation of Argentina's territorial integrity. The two parties had formally declared their intent to comply with resolution 2065 (XX); negotiations had begun in January 1966 and had continued until the 1970s. In 1985, the General Assembly had rejected two proposed amendments by which the United Kingdom had sought to include mention of the principle of self-determination in the draft resolution on the question of the Malvinas Islands.

36. Argentina had been established through a revolt against colonialism and had always defended the principle of self-determination of peoples under colonial domination, but that principle was too important to be used in support of an anachronistic colonial dispute. He paid tribute to those who had lost their lives in the 1982 conflict; while the military dictatorship that had governed Argentina at that time had been wrong to depart from the nation's tradition of peaceful, diplomatic dialogue in its effort to achieve full sovereignty over the Malvinas Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas. However, the United Kingdom also bore responsibility for the conflict, and its military victory had not changed the nature of the

dispute, as the General Assembly and the Special Committee had recognized on many occasions.

37. The Government of Argentina had always been willing to cooperate with the United Kingdom on practical matters arising from the de facto situation in the South Atlantic, provided that that cooperation helped create conditions favourable to the resumption of sovereignty negotiations in accordance with the resolutions of the United Nations and other international bodies. But despite the re-establishment of bilateral relations with the United Kingdom in 1990 and the provisional understandings reached under the sovereignty formula, the United Kingdom had continued to introduce unilateral modifications in the situation in violation of those agreements and of General Assembly resolutions, particularly resolution 31/49 of 1 December 1976. Since February 2006, his Government had repeatedly invited the United Kingdom to discuss the status of those provisional understandings and, in particular, the existence of a sovereignty dispute and the obligation of both parties to resolve it by resuming bilateral negotiations. Unfortunately, the intransigence of the United Kingdom had thus far prevented frank and open dialogue.

38. The United Kingdom had taken a number of unilateral measures with a long-term impact on fisheries resources in the illegally occupied maritime areas, including attempts to require vessels flying the flags of third States to purchase fishing licences and to impose similar illegal requirements in violation of the Joint Declaration of 28 November 1990, of General Assembly resolutions and of the Convention on the Conservation of Antarctic Marine Living Resources. Those measures had forced Argentina to lodge protests with the Organization of American States (OAS) and the relevant United Nations bodies and to consider whether to continue its membership in the South Atlantic Fisheries Commission; its meetings had been suspended and, despite two diplomatic meetings, his Government and that of the United Kingdom had reached no agreement.

39. In July 2000, the South West Atlantic Hydrocarbons Commission had held its last meeting owing to diverging interpretations of the scope of the understanding between the two countries. The United Kingdom continued to carry out unilateral acts contrary to the 1995 Joint Declaration of Cooperation over Offshore Activities in the South West Atlantic, which provided for joint action by the two Governments in the disputed territory. The Argentine Government had intended to convey to the Government of the United Kingdom its conclusions on that matter at the diplomatic meeting proposed by Argentina, but the United Kingdom had refused to attend. Consequently, on 27 March 2007, the Government of Argentina had announced its decision to withdraw from the Declaration. On 17 April 2007, the Heads of State present at the First South American Energy Summit had supported that decision, urging the two countries to renew negotiations with a view to a just, peaceful and definitive solution to the sovereignty dispute.

40. It could not be said that the Argentine Government intended to take any actions to harm the population of the islands, whose interests it was determined to respect. That was why Argentina had proposed to the United Kingdom, in November 2003, to establish regular flights between the islands and the Argentine mainland, operated by Argentine airline companies. Argentina continued to await a satisfactory response to its proposal, which would doubtless open up new and constructive prospects for both sides. It also hoped that a new agreement could be concluded regarding the exchange of goods and services between the Argentine mainland and the Malvinas Islands under the sovereignty formula, with economic benefits for both parties, and that confidence-building measures could be taken with respect to military matters.

41. It was impossible to understand how the United Kingdom, a permanent member of the Security Council, could ignore the resolutions of the General Assembly and the Special Committee for over 40 years by refusing to resume negotiations on the sovereignty dispute. By claiming to condition the solution on the views of the British inhabitants of the islands, it was openly declaring that it was reluctant to comply with the relevant resolutions and with the Charter, which obliged States to seek a peaceful solution to international disputes to which they were parties; moreover, both States had reaffirmed their commitment to negotiate in their Joint Declaration of 19 October 1989. The United Kingdom's refusal to meet its international obligations in that regard made it unlikely that normality would be restored to the South Atlantic within a reasonable time period; in particular, the enlargement of the British military base on the Malvinas Islands, with an operative capacity far exceeding the illegitimately occupied area, suggested

that the United Kingdom's true objectives went beyond the framework of the sovereignty dispute.

42. That attitude was in sharp contrast to that of the countries members of the Zone of Peace and Cooperation of the South Atlantic, which had met that week in Luanda and had stressed the need for Argentina and the United Kingdom to resume negotiations as soon as possible in order to resolve the sovereignty debate. The draft resolution before the Committee would, like its predecessors, provide the basis for a diplomatic solution to the dispute.

43. **Mr. Loizaga** (Observer for Paraguay), speaking on behalf of the Southern Common Market (MERCOSUR) and the associated States of Bolivia, Chile, Colombia, Ecuador and Peru, observed that the question of the Malvinas Islands had been under consideration since 1965. Year after year, the Special Committee had adopted by consensus a resolution stating that the only way to find a solution to the special and particular colonial situation in the Malvinas was a negotiated settlement of the sovereignty dispute between Argentina and the United Kingdom, taking into account the interests of the population of the islands.

44. At the January 2007 MERCOSUR summit in Rio de Janeiro, the States parties and associated States had reaffirmed their support for Argentina in its legitimate claim to sovereignty over the Malvinas Islands and had recalled that it was in the best interests of the region that the prolonged sovereignty dispute should be resolved as soon as possible, pursuant to the relevant United Nations resolutions and statements by the Organization of American States.

45. MERCOSUR called for a prompt, peaceful, fair and lasting solution through renewed negotiations between Argentina and the United Kingdom. It supported the current draft resolution and hoped that it would be adopted by consensus.

46. **Mr. Sardenberg** (Observer for Brazil) reiterated his Government's belief that Argentina had a legitimate claim to the islands and that the United Kingdom and Argentina should engage in dialogue in order to resolve the sovereignty dispute, as requested repeatedly by both the United Nations and the Organization of American States. He referred to previous statements by MERCOSUR and the South American Community of Nations in which they had reaffirmed their support for the legitimate rights of Argentina in the sovereignty dispute and recalled that the Heads of State and Government of the Ibero-American countries had issued a special communiqué in 2006, in which they had reaffirmed the need for Argentina and the United Kingdom to renew negotiations, in accordance with the resolutions of the United Nations and the Organization of American States and the principles of the Charter, including the principle of territorial integrity. A similar statement had been issued at the South American and Arab Countries Summit in 2005.

47. His Government welcomed the working paper prepared by the Secretariat (A/AC.109/2007/13) but was disappointed that the General Assembly resolutions on the need for comprehensive negotiations still had not been implemented. His Government fully supported the current draft resolution and hoped that it would be adopted by consensus.

48. **Mr. Chávez** (Observer for Peru) said that while his country had always defended the right of peoples to self-determination, the present case differed from that of most other Non-Self-Governing Territories. The position of his delegation, based on historical, geographical and legal criteria, was that the sovereignty of Argentina over the Malvinas Islands, South Georgia and the South Sandwich Islands and surrounding maritime areas should be recognized. Accordingly, the two parties to the dispute should resume negotiations as soon as possible in an effort to find a peaceful, just and lasting solution, as set forth in the draft resolution before the Special Committee.

49. Peru was aware from its own recent history that negotiations on sovereignty were not easy and required a great deal of patience, imagination and good faith in order to reach peaceful and lasting solutions. The desire to reach such a solution for the Malvinas Islands remained a key element of Peruvian foreign policy.

50. **Mr. Rosselli** (Observer for Uruguay) said that his delegation was convinced of the justice of the Argentine claim to sovereignty over the Malvinas Islands, and of the need for an early, peaceful and just settlement of the dispute in accordance with international law, the Charter of the United Nations and General Assembly resolution 1514 (XV). The crux of the dispute over the sovereignty of the Malvinas Islands was the relationship between the right to self-determination of peoples and the territorial integrity of States. Resolution 1514 (XV) established a clear limit to the right to self-determination by stating that faithful

and strict compliance with the resolution must be based on respect for the territorial integrity of States. From that point of view, Argentina enjoyed irrefutable rights over the islands, which had been inherited from Spain. In November 2006, the Heads of State and Government at the Ibero-American summit had issued a declaration that called on Argentina and the United Kingdom to renew negotiations to seek a rapid solution to the sovereignty dispute over the Malvinas Islands in accordance with the resolutions of the United Nations and the Organization of American States (OAS) and the provisions of the Charter of the United Nations, including the principle of territorial integrity. It was the responsibility of both parties to resume negotiations and find a solution that would benefit the region as a whole.

51. **Mr. Li** Kexin (China) said that China had consistently taken the position that territorial disputes between countries should be resolved through peaceful negotiations. It therefore encouraged the Governments of Argentina and the United Kingdom to act in accordance with the relevant resolutions of the General Assembly, continue their constructive dialogue and work towards an early, peaceful and just solution to the question. His delegation therefore supported the draft resolution.

52. **Mr. Davies** (Sierra Leone) said that the islanders valued their sovereignty and wished to maintain their constitutional links with the United Kingdom. The decision to retain such a constitutional link was in itself an act of self-determination. In the spirit of General Assembly resolution 637 (VII) and Article 73 *b* of the Charter, his delegation reaffirmed its commitment to respecting the wishes of the islanders, who had been living on the islands for more than 170 years. His delegation noted with satisfaction the existing cooperation between the democratically elected Government of the islands and the democratically elected Government of Argentina on matters of mutual interest, not least the conservation and management of marine resources. His delegation urged all parties to continue to engage in peaceful dialogue to find a lasting solution to their disputes, keeping in mind the views and wishes of the islanders.

53. **Ms. Asmady** (Indonesia) said that while decolonization represented one of the greatest achievements of the United Nations, the Special Committee's work would not be complete until the situation of the remaining 16 Non-Self-Governing Territories was resolved. The Committee should redouble its efforts to that end. The question of the Falkland Islands (Malvinas) exemplified the fact that no universal criteria could be applied to every decolonization question. In the instance before the Committee, the principle of territorial integrity was the overriding consideration. The relevant General Assembly resolutions clearly stated that the only way to end the colonial situation in the islands was through the peaceful and negotiated settlement of the sovereignty dispute between Argentina and the United Kingdom. Her delegation therefore urged the two countries to resume negotiations in order to find a peaceful and mutually acceptable solution based on the principle of territorial integrity and full acknowledgement of the interests of the islands' population. Indonesia was encouraged that the two Governments had begun talks on some aspects of the problem, such as a feasibility study on mine clearance.

54. **Ms. Terrazas Ontiveros** (Bolivia) said that it was important to bear in mind the historical background to the dispute. In particular, it should be recalled that the United Kingdom had seized the islands from Argentina in 1833. In 2007, that dispute remained of the utmost concern to the United Nations, OAS and the Rio Group. At the XIX Summit of the Heads of State of the Rio Group, held in Guyana in March 2007, the Group had reaffirmed its support for Argentina's sovereignty claim over the Malvinas Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas and had called on the Governments of the United Kingdom and Argentina to resume negotiations to find a just, peaceful and definitive solution to the dispute in accordance with United Nations and OAS resolutions.

55. Her delegation commended the efforts of the Special Committee and called on both parties to resume negotiations aimed at finding a solution that took into account the interests of the islands' inhabitants. Her delegation remained concerned that towards the end of the Second International Decade for the Eradication of Colonialism the good relations between Argentina and the United Kingdom had not been able to bring about a peaceful solution to the question of the Malvinas Islands in all its aspects. Her delegation had co-sponsored the resolution, which it trusted would be adopted by consensus.

56. **Mr. Ja'afari** (Syrian Arab Republic) commended Argentina for its support of the rights of the people of

the islands, its respect of United Nations resolutions and its rejection of foreign occupation and settlement. His Government's position was consistent with the views expressed at the 2005 summit of South American and Arab countries in Brasilia and the 2005 summit of the Group of 77 and China in Doha.

57. His delegation supported the draft resolution before the Special Committee. Its adoption by consensus would underline the international community's fundamental role in resolving the issue and its support for Argentina's quest for a peaceful settlement. His delegation was convinced that the resumption of dialogue between Argentina and the United Kingdom would lead to an appropriate resolution of the question of sovereignty over the islands that respected Argentina's territorial sovereignty.

58. **Mr. Malmierca Díaz** (Cuba) said that the Special Committee's consideration of the question of the Malvinas Islands had special significance because 2007 marked the twenty-fifth anniversary of the end of the military dispute over the islands. Despite the numerous resolutions the Special Committee had passed over the previous 20 years, no definitive solution to the question of the Malvinas was imminent. General Assembly resolution 2065 (XX) had defined the issue as a sovereignty dispute between the United Kingdom and Argentina that required negotiations between those Governments, taking into account the provisions of General Assembly resolution 1514 (XV), the United Nations Charter and the islanders' interests.

59. Since gaining independence in 1816, Argentina had expressed its political will to exercise effective sovereignty over the islands and the maritime areas of the Atlantic inherited from Spain. The islands had, however, been seized by British forces in 1833, and the authorities and local population evicted. Cuba reiterated its support for Argentina's claim over the islands and called for a negotiated, fair, definitive and prompt solution to the question, taking into account Argentina's territorial integrity and the islanders' interests. His delegation urged the United Kingdom to heed the Special Committee's call for negotiations and to respond to Argentina's willingness to resume the bilateral negotiation process. Until a definitive solution had been reached, unilateral acts introducing changes to the situation of the islands should not take place. Support for Argentina's sovereignty claim had been reiterated in various regional forums, including the Rio Group, the Ibero-American Community of Nations and the South American Community of Nations. Cuba, having co-sponsored the draft resolution, urged all Committee members to adopt it without a vote.

60. **Mr. Kabtani** (Tunisia) said that his delegation had taken note of the statements made by petitioners and Member States and hoped that the draft resolution would be adopted by consensus. It called on the Governments of Argentina and the United Kingdom to resume negotiations with a view to finding a peaceful solution to the conflict in accordance with relevant General Assembly resolutions.

61. **Mr. Arias Cárdenas** (Bolivarian Republic of Venezuela) said that the draft resolution showed clear support for Argentina's sovereignty claim over the Malvinas Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas inherited from Spain. His delegation was convinced that both parties should resume negotiations in order to find a peaceful solution in accordance with the principle of territorial integrity, the Charter of the United Nations and resolution 1514 (XV). Argentina and the United Kingdom had been called on to resume bilateral negotiations by the General Assembly, OAS and the XIX Summit of the Heads of State of the Rio Group. In accordance with General Assembly resolution 31/49, and until a definitive solution had been reached, unilateral acts introducing changes to the situation of the islands should not take place. Argentina's territorial integrity had been disrupted when the Malvinas Islands had been taken by force in 1833. The sixth operative paragraph of the Declaration on the Granting of Independence to Colonial Countries and Peoples prohibited any attempt to disrupt the territorial integrity of a State.

62. The islanders' way of life and culture were different from the rest of Latin America and the population was not stable because of migration between the islands and the United Kingdom. Moreover, the working paper contained in document A/AC.109/2007/13 showed that the population had grown by only 87 persons between 2001 and mid-2007. In view of those facts, it was not possible to consider the option of self-determination for a population transferred by the occupying Power and living in a Territory that historically belonged to Argentina. Having co-sponsored the draft resolution, his delegation urged all Committee members to adopt it by consensus. Towards the end of the Second International

Decade for the Eradication of Colonialism, it was important that the international community should continue to work towards a peaceful solution. His delegation encouraged the Secretary-General to continue his efforts towards ensuring that both parties complied with General Assembly resolutions on the question.

63. **Mr. Paletskiy** (Russian Federation) said that his delegation supported the draft resolution and trusted that it would be adopted by consensus. It was necessary to find a mutually agreed solution to the question of the Malvinas Islands through bilateral talks between the two countries concerned, based on the relevant decisions of the General Assembly.

64. **Mr. Okio** (Congo) said that his delegation remained convinced that the resumption of negotiations in the framework of General Assembly resolutions remained the appropriate means of finding a peaceful solution to that unique situation.

65. **The Chairperson** said that she would take it that the Committee wished to adopt draft resolution A/AC.109/2007/L.8 without a vote.

66. *Draft resolution A/AC.109/2007/L.8 was adopted.*

67. **The Chairperson** announced that the Special Committee had concluded its consideration of the item.

The meeting rose at 1.05 p.m.

United Nations A/AC.109/2007/SR.9

General Assembly

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25 July 2007

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Summary record of the 9th meeting
Held at Headquarters, New York, on Wednesday, 27 June 2007, at 10 a.m.

Chairperson: Ms. Hughes-Ferrari ..... (Saint Vincent and the Grenadines)

Contents

Adoption of the agenda

Question for Tokelau

Hearing of representatives of the Non-Self-Governing Territory

Report of the Special Committee

Draft report of the Caribbean regional seminar

Organization of work

Other matters

Closure of the session

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07-39977 (E)

The meeting was called to order at 10.30 a.m.

Adoption of the agenda

1. *The agenda was adopted.*

Question of Tokelau (A/AC.109/2007/11 and A/AC.109/2007/L.15)

Hearing of representatives of the Non-Self-Governing Territory

2. *At the invitation of the Chairperson, Mr. Nasau (Ulu-o-Tokelau) and Mr. Payton (Administrator of Tokelau) took places at the Committee table.*

3. **Mr. Nasau** (Ulu-o-Tokelau), titular head of the Territory, said that Tokelau's Referendum Commission had decided to hold the upcoming referendum from 20 to 24 October 2007 rather than in November 2007, as planned, in order to avoid the risks associated with the cyclone season. The results of the vote would be declared within 24 hours.

4. The General Fono had decided that the proposal for the 2007 referendum would be the same as that of the previous year — "that Tokelau become self-governing in free association with New Zealand on the base of the Constitution and the Treaty" — and that Tokelau would be declared to have achieved self-determination only if more than a two-thirds majority of the valid votes supported the proposal. As in 2006, the package that would be put to the vote included the draft constitution of Tokelau, endorsed in principle by the General Fono in May 2005, and the draft treaty of free association between New Zealand and Tokelau, the principles of which had been approved by the General Fono and by New Zealand's Cabinet in 2005. The Referendum Commission had decided to invite two representatives of the Special Committee to attend as observers.

5. The Council of Ongoing Government was of the view that in order for the referendum to be truly successful, it was important to have the support of the Tokelau communities both at home and abroad. From January to March 2007, it had therefore consulted with Tokelauans in the Territory and in Hawaii, American Samoa, Samoa, Australia and New Zealand. In the villages of Tokelau, Referendum Committees had been established to provide information to the people; they were supported by a Consultation Team that held consultations for two or three weeks in each village.

6. Continuing close cooperation with New Zealand was essential. That relationship of trust was a result of the good faith and patience shown by the past leaders of both countries and of their commitment to the development of Tokelau's capacity for self-government. The 2003 Joint Statement of the Principles of Partnership between Tokelau and New Zealand was visionary in its goal of creating a framework within which both parties could derive maximum benefit from their relations and provided a firm foundation for constructive dialogue. The partners had also signed the Arrangement between New Zealand and Tokelau on Economic Support to Tokelau 2004/05-2007/08 and were finalizing an economic package for the period 2007-2010.

7. The current year had seen the final resolution of an accumulated funds deficit that had had an adverse impact on development initiatives for the past three years. Tokelau had sought to address that problem in a fiscally prudent manner, and he was certain that that stance had contributed to the increased levels of assistance proposed by New Zealand in its economic support arrangements for the next three-year period, during which the Tokelau authorities planned to focus on village development, health, education and transport. Shipping was the lifeline to the Territory's small atolls, and the Government of New Zealand was working with the local authorities to ensure that a new purpose-built ship would soon be available.

8. The Tokelau International Trust Fund, which looked to the long-term future of the population, contained approximately US$ 22 million thanks to substantial support from New Zealand, Australia and the United Kingdom; there would be further opportunities for countries to contribute to the Fund in the future.

9. In light of Tokelau's fragile environment, energy independence through the development of indigenous energy resources was a long-term goal. The Government of Tokelau, with support from the United Nations Development Programme (UNDP), would assess whether the power system on each of the three atolls could be based on a solar and coconut oil hybrid. He called on the international community to take practical, immediate steps to reduce the impact of rising sea levels and global warming; for example, sea walls were needed in the low-lying villages. In November 2006, Tokelau had hosted 10 regional organizations and United Nations agencies in an effort

to develop a draft joint United Nations and Council of Regional Organisations in the Pacific (CROP) agencies strategy for Tokelau for the period 2007-2010.

10. Tokelau had limited resources and capacities in some areas and looked forward to support from the Government of New Zealand in order to help settle its exclusive economic zone (EEZ) boundaries and to formalize arrangements with the Government of Samoa, its "elder brother" and gateway to the world.

11. Regardless of the outcome of the referendum, the Government of Tokelau remained committed to self-determination and was confident that it would receive continuing support from New Zealand and other countries.

12. **Mr. Payton** (Administrator of Tokelau) confirmed the New Zealand Government's full support for the October 2007 referendum and for Tokelau's invitation for the Committee to attend. His Government also wished to ensure that the Electoral Assistance Division of the Secretariat would continue to provide support for that process and had offered to cover the costs of participation for two representatives of the Division.

13. It was important to ensure that voters had a clear understanding of what was at stake for them and for Tokelau. The 20 months between the two referendums had been thoroughly used by the Territory's leaders, whose actions had been a credit to the democratic process. The debate following the narrow failure of the proposal in the 2006 referendum had been thorough and frank and it had been determined that more needed to be done to reassure Tokelauans living outside the atolls that self-government would not disadvantage their interests. Their concerns had been addressed through consultation, there was a clear sense of unity within the Tokelauan community, and both the voters and the wider family of Tokelauans would be as well prepared as possible to make an informed choice.

14. The referendum would determine the status of the three atolls of Atafu, Nukunonu and Fafaofo, which constituted Tokelau under the 1980 Treaty between the United States of America and New Zealand on the delimitation of the maritime boundary between Tokelau and the United States of America. As administering authority, New Zealand reaffirmed its commitment to the territorial integrity of Tokelau on the basis of that Treaty and had endeavoured to ensure that the Territory had the necessary support systems and infrastructure to prepare it for the future. A vastly improved shipping service geared to both freight and passenger transport, a thorough upgrade of schools and hospitals, and a three-year economic support package that would enable the Taupulega (village councils) to plan with certainty were proof that New Zealand would remain steadfast in its commitment to Tokelau in the coming years.

15. Whatever the outcome of the referendum, the Tokelauans would continue to face serious challenges, including the impact of climate change, sea level rise and extreme weather events, and they must do so in the knowledge that their behaviour had in no way caused those problems. And if the referendum was successful, Tokelau's leaders would need to determine the most appropriate way to interact with the wider international community and how best to draw together the inhabitants of the atolls and the many Tokelauans who lived elsewhere in the region. Central to that endeavour would be a determination to keep their culture and language strong and vibrant.

16. The fact that Tokelau's future lay in the hands of its people was a testament to his Government's commitment to decolonization. Tokelau and New Zealand were linked by bonds of family and commitment that would endure, whatever the outcome of the referendum.

17. **The Chairperson** said that the February 2006 referendum had been an important step in Tokelau's quest for self-determination and provided an example of an administering Power's good faith and commitment to the development of a territory's capacity for self-government through strengthened economic, political and social well-being.

18. The Committee had followed closely the developments leading up to the second referendum and thanked the Ulu-o-Tokelau for the invitation to attend. It stood ready to support the Territory and hoped that Tokelau would avail itself of all the assistance that the United Nations system had to offer.

19. *Mr. Nasau (Ulu-o-Tokelau) and Mr. Payton (Administrator of Tokelau) withdrew.*

Draft resolution A/AC.109/2007/L.15

20. **Mr. Aisi** (Papua New Guinea), speaking also on behalf of Fiji, introduced the draft resolution. He had attended the February 2006 referendum on behalf of

the Committee and, following his report on the outcome, the Committee had decided that it would support another referendum when Tokelau and New Zealand were ready. He commended the two parties on their efforts and stressed that New Zealand had provided an example for other administering Powers to follow. He hoped that the invitation for the United Nations to monitor the October 2007 referendum would be accepted.

21. *Draft resolution A/AC.109/2007/L.15 was adopted.*

22. **The Chairperson** announced that the Special Committee had concluded it consideration of the item.

The meeting was suspended at 11 a.m. and resumed at 11.10 a.m.

Report of the Special Committee
(A/AC.109/2007/L.14)

23. **The Chairperson**, drawing attention to the draft report of the Special Committee contained in document A/AC.109/2007/L.14, said that it contained decisions and recommendations of the Special Committee on the question of holding a series of meetings away from Headquarters, representation at seminars, meetings and conferences of intergovernmental and other organizations, pattern of conferences, control and limitation of documentation, the question of the list of Territories to which the Declaration was applicable, the regional seminar, and the participation of representatives of Non-Self-Governing Territories in the work of the Special Committee. The report followed essentially the same pattern as previous years' reports, with minor technical changes. She took it that the Committee was ready to adopt the draft report.

24. *It was so decided.*

Draft report of the Caribbean regional seminar
(A/AC.109/2007/CRP.2)

25. **The Chairperson** drew attention to the draft report of the Caribbean regional seminar contained in document A/AC.109/2007/CRP.2, and expressed her sincere thanks to the Government and people of Grenada for providing support and facilities for the seminar.

26. **Mr. Daniel** (Saint Vincent and the Grenadines) said that the people of his country strongly supported the fundamental human right of self-determination enshrined in the Charter of the United Nations. While it was inappropriate, in his view, for the Committee or attendees at the seminar to undermine that principle, his delegation would nevertheless refrain from impeding consensus on the draft report.

27. **The Chairperson** said she took it that the Committee wished to adopt the draft report of the Caribbean regional seminar and annex it to the report of the Special Committee to the sixty-second session of the General Assembly, it being understood that the reservations expressed by members would be reflected in the record of the meeting.

28. *It was so decided.*

Organization of work

29. **The Chairperson** said she took it that in order to facilitate the timely submission of the report of the Special Committee to the sixty-second session of the General Assembly, and in accordance with established practice, the Committee should authorize the Rapporteur to submit the report directly to the Assembly.

30. *It was so decided.*

Other matters

31. **The Chairperson** recalled that at its meeting of 30 June 2006, the Special Committee had postponed taking action on the draft decision, contained in document A/61/23, to appoint an independent expert. The duration of the proposed appointment was to have been for a period of three years beginning in February 2007. The decision had been postponed owing to lack of sufficient information on the proposed status and activities of the expert. The Secretariat had briefed the Committee in informal session on 30 June 2006 of the possible programme budget implications, were the Committee to take such a decision.

32. **Mr. Cherniavsky** (Secretary of the Committee) recalled that on 30 June 2006, he had apprised the Committee that although special rapporteurs or independent experts appointed under procedures established by the Commission on Human Rights were not remunerated, their travel and related operating expenses were funded by the regular budget, and that such appointments always required a statement of programme budget implications. While the Special Committee could recommend the adoption of similar procedures for its purposes, the Secretariat would be

unable to determine the possible budgetary implications of such an appointment without specific information regarding the selection process to be followed, the nature of the functions to be discharged, the approximate number of documents to be written by the independent expert for subsequent editing, translation and distribution, and the extent of travel required to perform those functions. Moreover, should the Special Committee proceed with the appointment, the appointee would have the status of "expert on mission" under articles VI and VII of the 1946 Convention on the Privileges and Immunities of the United Nations, and would be subject to the regulations governing the status, basic rights and duties of officials other than Secretariat officials, and experts on mission, provided in General Assembly resolution 56/280 of 27 March 2002. Financing of the activities of the independent expert could not therefore be obtained directly by that person from sources other than the United Nations since, as an expert on mission, he or she would be precluded from seeking or accepting any gift or remuneration from any Government, non-governmental source, or any other source external to the United Nations, for activities carried out in the course of his or her official functions while in the service of the United Nations.

33. He further recalled that following the postponement of Committee action on the decision, the Office of Legal Affairs had advised the Secretariat that the Special Committee, as a subsidiary organ of the General Assembly, was subject to the rules of procedure of that body, under which all draft decisions required estimates of associated expenditures prepared by the Secretary-General and statements on their budgetary implications prepared by the Advisory Committee on Administrative and Budgetary Questions (ACABQ). The Office of Legal Affairs had emphasized that it was for the Secretary-General, and not for the Special Committee, to determine the financial implications of a particular decision for the Organization. By taking a decision stating that the appointment of the independent expert would carry no programme budgetary implications, without the Secretary-General's estimation to that effect, the Special Committee would exceed its competence and authority.

34. The Office of Legal Affairs therefore recommended that the information necessary for the Secretary-General to make such determination must be provided prior to consideration of the draft decision. Should the Secretary-General find that the decision had financial implications, the normal budgetary process must be followed; a statement of programme budget implications would be submitted to the Special Committee prior to its consideration of the draft decision and a similar statement would be submitted to the Special Political and Decolonization Committee (Fourth Committee). The plenary of the General Assembly would then make a final determination on the matter, taking into consideration the recommendation of the Fourth Committee and the advice of the Administrative and Budgetary Committee (Fifth Committee) on the effect of the decision on the budget after having considered the estimate of expenditures and the related report of the ACABQ.

35. With reference to the fact that some delegations had expressed reservations on the draft decision, the Office of Legal Affairs noted that the Chairperson of the Special Committee remained under the authority of that Committee, and should avoid making proposals that did not enjoy its broad support. Finally, as the independent expert would have the status of "expert on mission", he or she would be accountable to the United Nations for his or her actions, and would be required to discharge his or her duties and regulate his or her conduct with the interests only of the Organization in view.

36. **Mr. Paletskiy** (Russian Federation) said that in the light of the Secretary's comments, it was clear that the appointment of an independent expert would entail substantial financial consequences. Without further explanation of those consequences, it would be difficult for his delegation to support the adoption of such a decision.

37. **Mr. Aisi** (Papua New Guinea) said that the issue of programme budget implications was of concern to his delegation, and that his delegation would consequently be reluctant to support the decision unless that issue was resolved.

38. **The Chairperson** proposed that in view of the statement by the Secretariat and views expressed by delegations, the Committee should take no action on the draft decision, and that the matter was therefore closed.

39. *It was so decided.*

Closure of the session

40. **The Chairperson**, in a closing statement, expressed her appreciation for the support extended to her and the interest shown in the work of the Special Committee. The results of the current session demonstrated that some progress had indeed been made in accomplishing the central task of the Special Committee: establishing conditions that would enable Non-Self-Governing Territories to demonstrate their will on the issue of their respective status through valid acts of self-determination. For example, more action-oriented and better-structured language could now be found in the consolidated draft resolution contained in document A/AC.109/2007/L.9 dealing with 11 of the 16 Non-Self-Governing Territories. In accordance with her mandate under the Visiting Missions resolution, she had met with all administering Powers and raised the issue of visiting missions, and intended to undertake follow-up consultations in due course. She called on the Committee to focus its time, energy and creativity on those Territories where it could help achieve progress on a case-by-case basis, and to find new ways of going about its work, through improved cooperation with the administering Powers and in full recognition of the peoples and Governments of the Non-Self-Governing Territories.

The meeting rose at 11.30 a.m.